



# RIGHTS STUFF

A Publication of The City of Bloomington  
Human Rights Commission

City of Bloomington

March 2013  
Volume 163

## Legal For San Diego to Rent Land to Boy Scouts

The Desert Pacific Council, a non-profit corporation chartered by the Boy Scouts of America, rents land from San Diego, California. They pay a dollar a year to rent land, plus a \$2500 annual administrative fee, for the Camp Balboa property in Balboa Park. They pay no rent for the Youth Aquatic Center in Mission Bay Park. Under the terms of the agreement, the Council has spent \$1.7 million for capital improvements to the Balboa property and \$2.5 million to build the Aquatic Center. The Council uses these properties for scouting purposes but allows the public at large to use them as well.

The Boy Scouts have long maintained that agnosticism, atheism and homosexuality are inconsistent with their goals and with the obligations of their members. (The Scouts are currently reconsidering their policy on gays.) Two sets of parents - a lesbian couple and an agnostic couple - sued the City of San Diego, saying that the City's leasing the properties to the Council violated the federal constitutional establishment and equal protection clauses, as well as state constitutional and statutory provisions. They said they would use the property but for the Boy Scouts' discriminatory policies. They lost.

The Court noted that the plaintiffs never applied to use either of

the properties, so there was no evidence that the Council discriminated against them. The plaintiffs said they had an "aversion to the facilities and felt unwelcome there because of the Boy Scouts' policies that discriminated against people like them." But that alone is not enough to win a legal case. As a concurring opinion said, "The plaintiffs allege absolutely no cognizable harm to themselves. They simply have a preference."

The Court said that San Diego leases out at least 123 parcels of properties to all kinds of non-profit organizations, most of which are secular. Thus, the Court concluded, the evidence showed that the "City's leases were available to both secular and sectarian institutions on an equal basis." The City, because it spends no money on the land it leases to the Council, was not funding a sectarian or religious group. The Council receives a benefit - it has the use of land for no or very low rent - but the City also receives benefits in the form of expensive improvements and management of the properties. The Court said no reasonable person could look at the arrangement and conclude that the City was engaged in religious indoctrination.

The case is Barnes-Wallace v. City of San Diego, 2012 WL 6621341 (9th Cir. 2012).

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## McDonald's and Franchisee Agree to Pay \$700,000 to Settle Complaint

Dearborn, Michigan is home of one of the nation's largest Arab and Muslim communities. The Detroit area is home to about 150,000 Muslims.

Two McDonald's restaurants in Dearborn advertised that some of their menu items were halal, meaning they met Islamic requirements for preparing food. Ahmed Ahmed purchased a chicken sandwich at one of the restaurants in 2011 and believed the sandwich was not halal. He investigated and learned that the restaurants had served non-halal food on many occasions when they ran out of halal food, without informing customers.

McDonald's said these restaurants have "a carefully designed system for preparing and serv-

ing halal such that halal chicken products are labeled, stored, refrigerated and cooked in halal-only areas." They said they train their employees on preparing halal food and require strict adherence to the required process.

Ahmed's attorney, Kassem Dakhlallah, said that the restaurants were negligent, but there was no evidence that the chain set out to deceive customers. He said that "McDonald's from the very beginning stepped up and took this case very seriously. They made it clear they wanted to resolve this. They got ahead of the problem."

McDonald's and the franchisee agreed to pay \$700,000 to settle the claim. About \$275,000

will go to Huda Clinic, a health clinic in Detroit; about \$150,000 will go to the Arab American National Museum in Dearborn; and about \$230,000 will go to attorneys. Ahmed will receive about \$20,000.

Dakhallah said he believed this was the first lawsuit of its kind related to McDonald's and halal food. In 2002, McDonald's agreed to donate \$10 million to Hindu and other groups to settle lawsuits that accused the chain of mislabeling French fries and hash browns as vegetarian. The vegetable oil used to prepare the items had traces of beef for flavoring purposes.

(Article based on McDonald's Settles Suit Over Islamic Diet Rules, by Jeff Karoub, AP, published in USA Today, January 21, 2013.)

## Congress Votes to Strike the Word "Lunatic" From Federal Law

Members of Congress may have trouble agreeing on much of anything lately, but on December 5, 2012, the U.S. House agreed almost unanimously to remove the word "lunatic" from all federal laws. The vote was 398 to 1. The only vote against the bill was from Louie Gohmert, R-Texas. He told The Hill, a Capitol Hill newspaper, that he had no problem with the word "lunatic" being used in federal law.

The Senate passed the bill, called the 21st Century Language Act, in May. When Sen. Kent Conrad, D-ND, introduced the bill, he said that "federal law should reflect the 21st century understanding of mental illness and disease. The continued use of this pejorative term has no place in the U.S. Code."

The word originates from Latin and is based on the out-

dated belief that mental health issues are triggered by changes in the moon. It's considered derogatory by many people with mental illness.

In 2010, Congress made similar changes, substituting the term "intellectual disability" for "mental retardation" in many areas of federal law.



## BHRC Announces Human Rights Award Winner

The BHRC has announced the winner of its 12th annual Human Rights Award. The BHRC chose long-time local attorney and activist Guy Loftman.

The BHRC chose Loftman as a tribute to his decades of work with various civil rights and human rights issues. As the IU student body president in the late 1960s, he was a champion of student rights, fighting the sex discrimination that was rampant on campus at the time.

Loftman also campaigned against the Vietnam War while a student, helping to organize an IU chapter of SDA (Students for a Democratic Society). He was

a conscientious objector who worked at Bloomington Hospital rather than go to war.

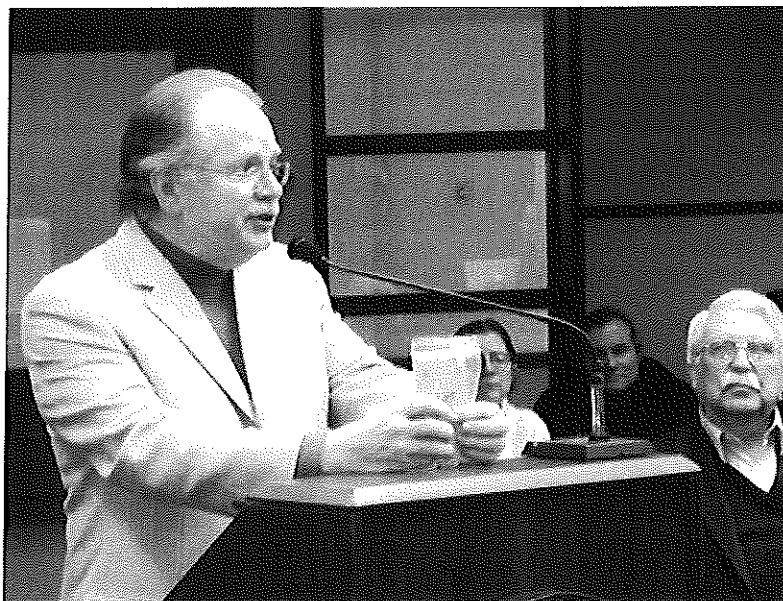
Loftman is a long-term, active member of the Monroe County Branch of the NAACP. He worked with the local NAACP on its Criminal Justice Study Commission. The Commission studied whether there was racial bias in arrests and sentences in Monroe County. The final report, *Race and Criminal Justice in Monroe County*, was published in 2003. The American Bar association called the study "a national model for community relations."

He is a past member of the Monroe County Election Board, where he helped raise concerns

about voting machines.

Carolyn Calloway-Thomas, a member of the BHRC, said "Guy's commitment to racial and gender equality, to peace efforts and to voting rights, among others, makes him more than deserving of this award."

Byron Bangert, BHRC chair, said when presenting the award, "For his still persistent, if now more gentle, rocking on behalf of human rights and social justice, the Bloomington Human Rights Commission expresses its gratitude and pleasure in presenting its 2012 Human Rights Award to Mr. Guy Loftman."



Byron Bangert, BHRC chair, (right) presented Guy Loftman his human rights award at the Bloomington Common Council meeting on February 20.



## **Free Tax Help for Low and Moderate Income People**

If you worked in 2012, you may be eligible for up to \$5,891 through the earned income tax credit, even if you don't owe any taxes.

IRS-certified volunteers are available to help low and moderate-income people prepare and file their federal and state income tax returns for free. This service also helps eligible residents claim the earned income tax credit. They can help you receive all of your refund quickly and easily, usually in ten days or less.

This service is sponsored by a number of local organizations, including United Way of Monroe County and the City of Bloomington's Community and Family Resources Department.

For more information, a list of documents to bring with you and mobile site locations, dial 2-1-1 or visit [MonroeUnitedWay.org/FreeTaxes](http://MonroeUnitedWay.org/FreeTaxes).

## **Concrete Company Agrees to Pay \$50,000 to Settle Disability Complaint**

Chassity Brady worked for Dayton Superior Corporation, a provider of concrete and masonry construction products. She has bipolar disorder and in August of 2011, while at work, had an adverse reaction to the prescribed medication she takes for her disorder. Dayton required her to take a drug test. The only substances found in her system were her prescribed medications. Dayton fired her as soon as it got the results.

She filed a complaint of disability discrimination in employment and the Equal Employment Opportunity Commission sued on her behalf. Robert Dawkins of the EEOC said the agency "filed this case because the evidence indicated Ms. Brady was

## **Indianapolis Speedway Agrees to Meet ADA Standards**

Dan Ward, a man who uses a wheelchair, went to the Indianapolis Motor Speedway in 1999 to attend a practice session. He had a pit pass, but was not able to access the pits because it was not wheelchair-accessible. He filed a complaint with the Department of Justice, alleging that Speedway violated the Americans with Disabilities Act (ADA).

Justice investigated and found 360 violations of the ADA. As part of a settlement announced in January, 2013, Speedway has agreed to add wheelchair seating in the grandstands and to make the restrooms and parking lots accessible to people with disabilities. They will also make the infield mounds wheelchair accessible and alter ramps throughout the facility to bring them into compliance with the ADA.

Speedway will also pay the Justice Department and Ward \$35,000 each.

Speedway was built in 1909. The ADA was originally passed in 1999. Places of public accommodation that existed when the law went into effect are required to remove barriers to accessibility when it's readily achievable, or affordable, to do so.

terminated because her disability required her to take medication. Making employment decisions on the basis of stereotypical assumptions about disability-based medications is one of the problems the Americans with Disabilities Act was designed to combat."

Under the settlement, Dayton will pay Brady \$50,000 and will provide equal opportunity employment training, reporting and postings.

If you have questions about your rights and responsibilities under fair employment laws, please contact the BHRC.